

**IN THE UNITED STATES DISTRICT COURT FOR THE  
NORTHERN DISTRICT OF OKLAHOMA**

**UNITED STATES OF AMERICA,**

*Plaintiff,*

**v.**

**GLENN DAVID NICKOLS,**

*Defendant.*

**Case No. 22-CR-271-JDR**

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**MOTION FOR DOWNWARD VARIANCE FROM GUIDELINES**

Comes now the Defendant, Glenn David Nickols, by and through undersigned counsel and hereby moves this Court to vary from the guidelines as calculated in the Presentence Report in this case. In support of this motion, the defendant states as follows:

1. Mr. Nickols pled guilty to the two charged counts of the indictment: Count One: Aggravated Sexual Abuse of a Minor under the age of 12 in Indian Country in violation of 18 U.S.C. §§1151, 1152 and 2241(c) and Count Two: Sexual Exploitation of a Child in violation of 18 U.S.C. §§2252(a) and (e). Count One carries a minimum mandatory sentence of not less than thirty years and up to life. Count Two carries a minimum mandatory sentence of not less than 15 years nor more than 30 years imprisonment.
2. The guideline range calculated in Mr. Nickols presentence report is life.

3. As the guidelines are advisory, and not mandatory, this court has the discretion to vary from the guideline range in this case. See *U.S. v. Booker*, 542 U.S. 220, 125 s. Ct. 738, (2005) and its progeny.
4. Mr. Nickols is 41 years old. If he receives the minimum sentence this Court could impose, he would be 71 years old upon his release. The average life expectancy of a male in the United States is 74.8 years according to statistics kept by the Centers for Disease Control <sup>1</sup> (See <https://www.cdc.gov/nchs/products/databriefs/db492.htm>). The Prison Policy Initiative calculates that each year in prison may shorten a person's life by two years<sup>2</sup>.
5. Given the above, Mr. Nickols, if he receives a 30-year sentence, will essentially be receiving a life sentence. The average cost of incarceration in a federal prison in FY 2022 was \$42,672 per year (or \$116.91 per day)<sup>3</sup> If he were to outlive the life expectancy predicted by the CDC, every day would cost the taxpayer an additional \$116.91.
6. Mr. Nickols is also subject to a term of supervised release of up to life. Therefore, the chances of recidivism in this case are low.

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<sup>1</sup> <https://www.cdc.gov/nchs/products/databriefs/db492.htm>

<sup>2</sup> [https://www.prisonpolicy.org/blog/2017/06/26/life\\_expectancy](https://www.prisonpolicy.org/blog/2017/06/26/life_expectancy)

<sup>3</sup> <https://www.federalregister.gov/documents/2023/09/22/2023-20585/annual-determination-of-average-cost-of-incarceration-fee-coif>

7. Mr. Nickols also incorporates the sentencing memo filed separately in this matter in support of this motion for variance, as this court must consider not only the offense, but the characteristics of the defendant, and the need for the sentence imposed as further documentation that a sentence of thirty years is appropriate in this case.

Wherefore, Mr. Nickols requests this court to grant this motion for downward variance.

Respectfully submitted this 4<sup>th</sup> day of April, 2024.

OFFICE OF THE FEDERAL PUBLIC DEFENDER  
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**CERTIFICATE OF SERVICE**

I hereby certify that on April 4, 2024, I electronically transmitted the foregoing document to the Clerk of Court using the ECF System for filing and transmittal of a Notice of Electronic Filing to the following ECF registrants:

Christopher Jordon Nassar  
Assistant United States Attorney

/s/ Christina L. Hunt  
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